

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE G. LICENSES AND OTHER REGULATION

CHAPTER 145. TANNING FACILITIES

Sec. 145.002. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 3.030(23), eff. September 1, 2015.

(2) "Fitzpatrick scale" means the following scale for classifying a skin type, based on the skin's reaction to the first 10 to 45 minutes of sun exposure after the winter season:

Skin Type	Sunburning and Tanning History
1	Always burns easily; never tans
2	Always burns easily; tans minimally
3	Burns moderately; tans gradually
4	Burns minimally; always tans well
5	Rarely burns; tans profusely
6	Never burns; deeply pigmented

(3) "Health authority" has the meaning assigned by Section [121.021](#).

(4) "Operator" means an owner of a tanning facility or an agent of an owner of a tanning facility.

(5) "Person" means an individual, partnership, corporation, or association.

(6) "Phototherapy device" means a piece of equipment that emits ultraviolet radiation and is used by a health care professional in the treatment of disease.

(7) "Tanning device" means a device under Section [431.002](#) and includes any equipment, including a sunlamp, tanning booth, and tanning bed, that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for the tanning of human skin. The term also includes any accompanying equipment, including protective eyewear, timers, and handrails.

(8) "Tanning facility" means a business that provides persons access to or use of tanning devices.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 684, Sec. 1, eff. June 15, 1995; Acts 2001, 77th Leg., ch. 473, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.030(23), eff. September 1, 2015.

Sec. 145.003. EXEMPTION. This chapter does not apply to a phototherapy device used by or under the supervision of a licensed physician trained in the use of phototherapy devices.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.

Sec. 145.004. COMPLIANCE WITH LAW. (a) A tanning device used by a tanning facility must comply with all applicable federal and state laws and regulations.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 3.030(24), eff. September 1, 2015.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 684, Sec. 2, eff. June 15, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0431, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.030(24), eff. September 1, 2015.

Sec. 145.005. CUSTOMER NOTICE; LIABILITY. (a) A tanning facility shall give each customer a written statement warning that:

(1) failure to use the eye protection provided to the customer by the tanning facility may result in damage to the eyes;

(2) overexposure to ultraviolet light causes burns;

(3) repeated exposure may result in premature aging of the skin and skin cancer;

(4) abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain:

(A) foods;

(B) cosmetics; or

(C) medications, including:

- (i) tranquilizers;
- (ii) diuretics;
- (iii) antibiotics;
- (iv) high blood pressure medicines; or
- (v) birth control pills;

(5) any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device;

(6) a person with skin that always burns easily and never tans should avoid a tanning device; and

(7) a person with a family or past medical history of skin cancer should avoid a tanning device.

(b) Compliance with the notice requirement does not affect the liability of a tanning facility operator or a manufacturer of a tanning device.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.  
Amended by Acts 2001, 77th Leg., ch. 473, Sec. 2, eff. Sept. 1, 2001.

Sec. 145.006. WARNING SIGNS. (a) A tanning facility shall post a warning sign in a conspicuous location where it is readily visible by persons entering the establishment. The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

Repeated exposure to ultraviolet radiation may cause chronic sun damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.

DANGER: ULTRAVIOLET RADIATION

Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.

Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

A tanning facility operator who violates a law relating to

the operation of a tanning facility is subject to a civil or criminal penalty. If you suspect a violation, please contact your local law enforcement authority or local health authority.

IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF AN  
ULTRAVIOLET LAMP OR SUNLAMP.

(b) A tanning facility operator shall also post a warning sign at each tanning device in a conspicuous location that is readily visible to a person about to use the device. The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

DANGER: ULTRAVIOLET RADIATION

1. Follow the manufacturer's instructions for use of this device.

2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries and allergic reactions. Repeated exposure may cause skin cancer.

3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.

4. Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women using oral contraceptives who use this product may develop discolored skin.

A tanning facility operator who violates a law relating to the operation of a tanning facility is subject to a civil or criminal penalty. If you suspect a violation, please contact your local law enforcement authority or local health authority.

IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF  
THIS DEVICE.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.030(25), eff. September 1, 2015.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 684, Sec. 3, eff. June 15, 1995; Acts 2001, 77th Leg., ch. 473, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0432, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.012, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.030(25), eff. September 1, 2015.

Sec. 145.007. PROHIBITED CLAIMS ABOUT SAFETY. A tanning facility operator may not claim or distribute promotional materials that claim that using a tanning device is safe or free from risk or that using a tanning device will result in medical or health benefits.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 684, Sec. 4, eff. June 15, 1995.

Sec. 145.008. OPERATIONAL REQUIREMENTS. (a) A tanning facility shall have an operator present during operating hours. The operator must:

(1) be sufficiently knowledgeable in the correct operation of the tanning devices used at the facility;

(2) instruct, inform, and assist each customer in the proper use of the tanning devices;

(3) complete and maintain records required by this chapter; and

(4) explain or otherwise inform each customer initially using the tanning facility of:

(A) the potential hazards of and protective measures necessary for ultraviolet radiation;

(B) the requirement that protective eyewear be worn while using a tanning device;

(C) the possibility of photosensitivity or of a photoallergic reaction to certain drugs, medicine, or other agents when a person is subjected to the sun or ultraviolet radiation;

(D) the correlation between skin type and exposure time;

(E) the maximum exposure time to the facility's devices;

(F) the biological process of tanning; and

(G) the dangers of and the necessity to avoid overexposure to ultraviolet radiation.

(b) Before each use of a tanning device, the operator shall provide with each device clean and properly sanitized protective eyewear that protects the eyes from ultraviolet radiation and allows adequate vision to maintain balance. The protective eyewear shall be located in the immediate area of each tanning device and shall be provided without charge to each user of a tanning device. The operator may not allow a person to use a tanning device if that person does not use protective eyewear that meets the requirements of the United States Food and Drug Administration. The operator also shall show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer of the tanning device.

(c) The tanning facility operator shall clean and properly sanitize the body contact surfaces of a tanning device after each use of the tanning device.

(d) The tanning facility shall use a timer with an accuracy of at least plus or minus 10 percent of the maximum timer interval of the tanning device. The operator shall limit the exposure time of a customer on a tanning device to the maximum exposure time recommended by the manufacturer. A timer shall be located so that a customer cannot set or reset the customer's exposure time. The operator shall control the temperature of the customer contact surfaces of a tanning device and the surrounding area so that it may not exceed 100 degrees Fahrenheit.

(e) Before a customer uses a tanning facility's tanning device for the first time and each time a person executes or renews a contract to use a tanning facility, the person must provide photo identification and sign a written statement acknowledging that the person has read and understood the required warnings before using the device and agrees to use protective eyewear.

(f) To ensure the proper operation of the tanning equipment,

a tanning facility may not allow a person younger than 18 years of age to use a tanning device.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1381, Sec. 2, eff. September 1, 2013.

(h) When a tanning device is in use by a person, another person may not be allowed in the area of the tanning device.

(i) A record of each customer using a tanning device shall be maintained at the tanning facility at least until the third anniversary of the date of the customer's last use of a tanning device. The record shall include:

(1) the date and time of the customer's use of a tanning device;

(2) the length of time the tanning device was used;

(3) any injury or illness resulting from the use of a tanning device;

(4) any written informed consent statement required to be signed under Subsection (e);

(5) the customer's skin type, as determined by the customer by using the Fitzpatrick scale for classifying a skin type;

(6) whether the customer has a family history of skin cancer; and

(7) whether the customer has a past medical history of skin cancer.

(j) An operator shall keep an incident log at each tanning facility. The log shall be maintained at the tanning facility at least until the third anniversary of the date of an incident. The log shall include each:

(1) alleged injury;

(2) use of a tanning device by a customer not wearing protective eyewear;

(3) mechanical problem with a tanning device; and

(4) customer complaint.

(k) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 3.030(26), eff. September 1, 2015.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 684, Sec. 5, eff. June 15,

1995; Acts 2001, 77th Leg., ch. 473, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 626 (H.B. [1310](#)), Sec. 1, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 1381 (S.B. [329](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1381 (S.B. [329](#)), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0433, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 3.013, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 3.030(26), eff. September 1, 2015.

Sec. 145.0096. CERTAIN ADVERTISING PROHIBITED. (a) This section applies only to a business that:

(1) is operated under a license or permit as a sexually oriented business issued in accordance with Section [243.007](#), Local Government Code; or

(2) offers, as its primary business, a service or the sale, rental, or exhibition of a device or other item that is intended to provide sexual stimulation or sexual gratification to a customer.

(a-1) A business to which this section applies may not use the word "tan" or "tanning" in a sign or any other form of advertising.

(b) A person commits an offense if the person violates Subsection (a-1). Except as provided by Subsection (c), an offense under this subsection is a Class C misdemeanor.

(c) If it is shown on the trial of an offense under Subsection (b) that the person has previously been convicted of an offense under that subsection, the offense is a Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 684, Sec. 7, eff. June 15, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 3.014,



eff. September 1, 2015.

Sec. 145.011. ACCESS TO RECORDS. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 3.030(30), eff. September 1, 2015.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 3.030(30), eff. September 1, 2015.

(c) A person who is required to maintain records under this chapter or a person in charge of the custody of those records shall, at the request of a health authority, permit the health authority access to copy or verify the records at reasonable times.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 684, Sec. 9, eff. June 15, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0436, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.015, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.016, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.030(30), eff. September 1, 2015.

Sec. 145.0121. CIVIL PENALTY; INJUNCTION. (a) If it appears that a person has violated or is violating this chapter, the attorney general, or the district, county, or municipal attorney in the jurisdiction where the violation is alleged to have occurred or may occur, may institute a civil suit for:

- (1) an order enjoining the violation;
- (2) a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy;
- (3) the assessment and recovery of a civil penalty; or
- (4) both injunctive relief and a civil penalty.

(b) A civil penalty may not exceed \$25,000 a day for each violation. Each day the violation occurs constitutes a separate violation for the purposes of the assessment of a civil penalty.

(c) In determining the amount of the civil penalty, the court hearing the matter shall consider:

- (1) the person's history of previous violations;
- (2) the seriousness of the violation;
- (3) the hazard to the health and safety of the public;
- (4) the demonstrated good faith of the person charged;

and

- (5) any other matter as justice may require.

(d) Venue for a suit brought under this section is the municipality or county in which the violation occurred or in Travis County.

(e) A civil penalty recovered in a suit instituted by a local government under this chapter shall be paid to the local government.

(f) The attorney general may recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses. The expenses recovered by the attorney general shall be used by the attorney general.

Added by Acts 1995, 74th Leg., ch. 684, Sec. 11, eff. June 15, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0438, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.017, eff. September 1, 2015.

Sec. 145.013. CRIMINAL PENALTY. (a) A person, other than a customer, commits an offense if the person violates this chapter.

(b) An offense under this chapter is a Class A misdemeanor.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 49, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 684, Sec. 12, eff. June 15, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.018, eff. September 1, 2015.

Sec. 145.016. DISCLOSURE OF RECORD PROHIBITED; EXCEPTION.

(a) Except as provided by Subsection (b), an operator or other person may not disclose a customer record required by Section [145.008](#)(i).

(b) An operator or other person may disclose a customer record:

(1) if the customer, or a person authorized to act on behalf of the customer, requests the record;

(2) if a health authority requests the record under Section [145.011](#);

(3) if the customer consents in writing to the disclosure to another person;

(4) in a criminal proceeding in which the customer is a victim, witness, or defendant;

(5) if the record is requested in a criminal or civil proceeding by court order or subpoena; or

(6) as otherwise required by law.

Added by Acts 2001, 77th Leg., ch. 473, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 3.019, eff. September 1, 2015.